

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-56915

MELODY LEA DEPEW,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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**ORDER FINDING THAT DEBTOR VIOLATED FED. R. BANKR. P. 9011(b)(3) AND
IMPOSING A SANCTION UNDER FED. R. BANKR. P. 9011(c)(2)**

On June 29, 2009, the Court entered an “Order Requiring Debtor and Her Attorney to Appear and Show Cause Why They Have Not Violated Fed.R.Bankr.P. 9011(b) and Why They Should Not Be Sanctioned” (Docket # 18), based in relevant part, on Debtor’s signing and filing “Exhibit D,” which contained the false statement that Debtor had received a credit counseling briefing “within the 180 days **before the filing of [her] bankruptcy case.**” (Emphasis added).

The Court held a hearing on the Show-Cause Order on July 22, 2009 and both Debtor and her attorney appeared. Debtor alleged that she had signed the statement in Exhibit D under the mistaken belief that she had completed her credit counseling briefing over the internet before the filing of her bankruptcy petition. This mistaken belief was due to her having received a confirmation number from the credit counseling agency. Debtor stated that she would file the document containing the confirmation number with the Court no later than July 29, 2009.

Confirming action taken at the hearing, on July 23, 2009, the Court entered an “Order Dissolving Show Cause Order as to Debtor’s Attorney, and Conditionally Dissolving Show Cause Order as to Debtor” (Docket # 20). The Order provided, in relevant part:

IT IS FURTHER ORDERED that the Court’s June 29, 2009 Show-Cause Order (Docket # 18) is conditionally dissolved as to Debtor, on the following condition. No later than **July 29, 2009**, Debtor must file a copy of the document, referred to by

Debtor in the July 22 hearing, showing the confirmation number which led Debtor to believe that she had completed her credit counseling briefing before filing her petition and "Exhibit D" on May 28, 2009. The Court will review that document after it is filed, and then issue a further order.

Debtor did not file a copy of the document, referred to by her in the July 22 hearing, by the July 29, 2009 deadline, and to date, has still not filed that document. For this reason, there is nothing in the record to support the allegation by the Debtor that she signed the false statement in Exhibit D under the mistaken belief that she had completed credit counseling briefing before filing of her bankruptcy case. Therefore, the Court finds that Debtor has violated Fed.R.Bankr. P. 9011(b)(3) by signing and filing Exhibit D.

Accordingly,

IT IS ORDERED that, as a sanction for violating Fed.R.Bankr.P. 9011(b)(3), under Fed. R.Bankr.P. 9011(c)(2), Debtor must pay \$200.00 to the Clerk of the Court \$200.00 no later than **August 21, 2009**. The Court finds that this sanction is necessary and sufficient to deter repetition of such conduct or comparable conduct by others.

Signed on August 09, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge